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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Implementation of the Local)	CC Docket No. 96-98
Competition Provisions of the)	
Telecommunications Act of 1996)	

**SPRINT'S PETITION FOR LIMITED RECONSIDERATION
AND/OR CLARIFICATION**

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SUMMARY

Sprint fully supports the basic policies adopted in the First Report and Order. This petition relates only to how those policies can best be implemented.

1. The individual loop element should be defined as an electrical or optical transmission path, rather than as a facility. In instances where the ILEC uses intermediate concentration devices, requiring the loop to be provided as a discrete facility could substantially raise the cost of the loop to the CLEC. At the same time, that definition could discourage ILECs from investing in new technologies such as hybrid fiber/coaxial networks.

2. Although Sprint wholeheartedly endorses the finding that electronic access to operations support systems should be provided as an unbundled element, it is unrealistic to expect the ILEC industry to comply by January 1, 1997. National standards for these interfaces as needed, so that CLECs will not have to undertake the expense of adapting their own systems to comply with different interface standards in each ILEC region. However, such standards do not now exist. The better course is to give the industry a deadline by which to develop consensus standards and a second deadline for the implementation of those standards. In the meantime, ILECs should not use the absence of such standards as a reason for denying reasonable requests for interim interfaces.

3. Although Sprint is a proponent of cost-based geographically deaveraged rates for unbundled elements, the requirement that the proxy loop rate be geographically deaveraged is impractical. Since the proxy rate does not reflect actual costs of any particular carrier, there is no principled means of deaveraging that loop rate geographically.

4. Payphone lines should not be subject to the wholesale discount requirement. These lines are intended only for use in the offering of communications services, and thus are more akin to access services -- which are not subject to the wholesale discount requirement -- than to conventional retail services. Moreover, since payphone providers may also become CLECs, it would be impossible to police whether the payphone lines they are requesting are for their own use (for which no discount is allowed) or for use in connection with other parties' payphones.

5. With respect to reciprocal compensation for transport and termination of local traffic, the Order entitles a CLEC having only one switch in a local calling area to be compensated for tandem switching and transport that do not in fact exist. If the ILEC's rates are to be applied to the CLEC, then the CLEC's network should be viewed as it is. If the CLEC believes that this level of compensation does not adequately cover its costs, it is entitled to demonstrate those costs to the states and obtain a cost-based rate.

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Sprint Corporation applauds the Commission for the exemplary quality of its First Report and Order in the above-captioned proceeding (FCC 96-325, released August 8, 1996). While neither Sprint, nor any other party, agrees with each and every determination made by the Commission in that Order, when viewed as a whole it represents a sound road map for the opening of the local exchange market to competition, a fair balancing of responsibilities between this Commission and state regulatory commissions, and a fair balancing of the legitimate interests of incumbent LECs and new entrants into the local market. Sprint does not seek reconsideration of any of the basic policy determinations in the First Report and Order. Rather, this petition raises issues relating to the implementation of those policies, including what Sprint believes may have been unintended consequences of certain provisions of the Order. The issues raised by Sprint will be

presented in the order in which they were discussed in the First Report and Order.

I. DEFINITION OF THE LOCAL LOOP ELEMENT (§§380, 385)

Paragraph 380 defines the local loop element as "a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the network interface device at the customer premises." In addition, the Commission (at §385) "decline[d] to define a loop element in functional terms, rather than in terms of the facility itself," on the basis that defining the loop in terms of the facility itself was necessary to give competing providers "exclusive control over network facilities dedicated to particular end-users... ." The Commission recognizes in §§383-84 that ILECs often provide loops using intermediate concentration devices, but finds that it is nonetheless technically feasible to unbundle such loops, e.g., by using a demultiplexer to separate the unbundled loops prior to connecting the remaining loops to the switch. The Commission points out that the costs associated with these mechanisms will be recovered from requesting carriers.

Sprint believes that this definition has two perhaps unintended consequences: (1) increasing the price for an unbundled loop where intermediate concentration is provided within the ILEC's own network; and (2) discouraging investment

by ILECs in new, higher capacity facilities, such as a hybrid fiber/coaxial cable network.

Defining the local loop as a facility, so that a requesting carrier will have an unconcentrated, dedicated facility from the network interface device to the ILEC central office, could impose substantially higher costs on the CLEC than would be the case if the loop were instead defined as a functional transmission path. In order to provide an unbundled loop in areas where intermediate concentration is utilized, the ILEC would have to physically rearrange its network between the central office and the end-user premises to create a dedicated facility that bypasses the concentration device. This would, at a minimum, require a visit by a technician to the intermediate concentration device to re-route the circuit and also could require installation of additional transmission facilities to connect the re-routed circuit to the end office. This could add substantially to both the non-recurring costs and monthly recurring costs for the unbundled loop, and, indeed, could play into the hands of an ILEC that wishes to maximize the prices charged for unbundled loops. If a CLEC desires to pay these additional costs of bypassing the intermediate concentration device, it should be entitled to do so. However, if it is willing to accept the same concentrated loop that the ILEC provides its

own customers -- i.e., a transmission path instead of a facility -- it should have that right as well.

In addition, defining the unbundled loop element in terms of a physical facility instead of a functional transmission path could discourage ILEC investment in new technologies such as hybrid fiber/coaxial networks. Such networks would enable ILECs to deliver multiple services to a customer premises, such as broadband services as well as voice grade telephone services. If a CLEC merely wants a voice grade channel to a particular end-user for local telephone service, and the ILEC serves that end-user through fiber/coaxial cable facilities, defining the unbundled loop element as the physical facility itself could possibly be construed as requiring the ILEC to turn over the entire capacity of the loop to the CLEC. This would unfairly penalize ILECs that have invested, or intend to invest, in such technology by precluding them from providing other services to the end-user that the physical facility may accommodate, services that the CLEC may not even wish to offer.

Accordingly, Sprint urges the Commission to reconsider its definition of the loop element, and instead to define the mandatory element as an electrical or optical transmission path.

II. IMPLEMENTATION OF OPERATIONS SUPPORT SYSTEMS (§525)

Sprint wholeheartedly endorses the Commission's finding that electronic access to the ILEC's operations support systems should be provided as an unbundled element. However, Sprint believes it is unrealistic to expect the ILEC industry to comply with this requirement by January 1, 1997, as §525 provides (or, for that matter, to expect CLECs to be able to take advantage of such electronic interfaces by that date).

At the present time, there are no industry standards for defining these electronic interfaces, and thus far, only one CLEC has presented Sprint's ILECs with a definitive and detailed request for electronic interfaces. That request was only submitted on September 23, and much of that CLEC's request could not be met until well into 1997.

Even if it were possible to satisfy that request, Sprint believes that it is better to have industry-wide standards for these interfaces, rather than ad hoc standards that satisfy the particular desires of one CLEC or one ILEC. Such ad hoc agreements might not take into account the perhaps differing requirements or interests of other CLECs, and could also result in standards that vary from one ILEC to the next, which would make it difficult and unnecessarily costly for CLECs operating on a national basis to adapt their own systems to comply with different interface standards in each ILEC region.

Only when these national standards are developed and implemented would the ILECs fully satisfy their duty to provide access and unbundled network elements that are nondiscriminatory as among CLECs and as between CLECs and themselves, as §251 requires (see ¶¶312, 523).

Sprint would like to see these electronic interfaces implemented at the earliest possible date. However, at least with respect to itself, the January 1, 1997 date, especially given the total absence of any useful definition of what precisely is required, simply cannot reasonably be met. Sprint continues to believe that the approach proposed in its initial comments in this docket is the preferable one: to give the industry a deadline (e.g., within 12 months) by which to develop a consensus standard, and a second deadline (e.g., within 12 months thereafter) for implementation of that standard.

Although robust, national standards for these interfaces will be necessary for effective local competition to emerge, it is unrealistic and not conducive to competition to require CLECs to deal with ILECs through phone calls and faxes until such time as the standard interfaces can be deployed. Thus, the Commission should make clear that it is the ILECs' duty to implement reasonable CLEC requests for interim interfaces that, while falling short of the nondiscrimination standard of the Act, at least would permit some more readily implementable

electronic substitute for manual interchange of information. ILECs should not be able to deny such requests on the basis that the required national standards are not yet available, and should have the burden of showing the period of time needed to implement a request for an interim interface. To the extent that any such request by a CLEC for interim interfaces is unique to the requirements of that CLEC or is later determined to be inconsistent with the national standards, the CLEC should be required to compensate the ILEC for the direct costs thereof.

III. GEOGRAPHIC DEAVERAGING OF PROXY RATES (§797)

Sprint was the first proponent of density-based geographic deaveraging of access charges before this Commission, and it enthusiastically supports the Commission's adoption of density-based geographic deaveraging of prices for unbundled network elements. However, §797 appears to require states that utilize the Commission's proxy loop rates to geographically deaverage these rates as well, and in so doing, to ensure that the weighted average of unbundled loop prices should not exceed the proxy ceiling set for the state.

Sprint believes that the deaveraging of proxy rates for loops is fraught with practical difficulties and could unnecessarily divert resources away from developing cost-based unbundled loop rates.

To begin with, the proxy rate is not necessarily reflective of costs. It is the Commission's best guess as to a reasonable ceiling price for an unbundled loop rate, to be employed while cost-based rates are being developed. It is not self-evident how an ILEC or a state commission should go about deaveraging a loop rate that itself is non-cost-based. Any such deaveraging would necessarily be arbitrary.

Furthermore, the proxy rates are statewide rates and thus could not be expected to reflect the differing costs characteristics of the individual ILECs that serve a particular state. An ILEC whose service area is more rural may have higher costs, even in its most dense areas, than an ILEC who serves the large urban areas of a state.

In addition, the requirement that the weighted average of the deaveraged loop rates must not exceed the proxy rate either forces the states into a statewide determination of deaveraged proxy loop prices in the course of arbitrating a dispute between only one ILEC and a requesting carrier, or alternatively could prejudice the calculation of deaveraged proxy rates in subsequent arbitrations involving the other ILECs. For example, assume that BellSouth were the first carrier to be subjected to arbitration in Florida, and that the Florida Commission was unable to determine cost-based unbundled loop prices within the time allowed for arbitration and wished to rely on the proxy loop rate instead. In order

to ensure that the weighted average of the geographically deaveraged prices does not exceed the statewide proxy rate, the Florida PSC would either have to establish deaveraged loop prices at that same time for GTE and Sprint (even though the Florida Commission does not allow other parties to participate in arbitration proceedings), or GTE and Sprint might be saddled with unrealistic deaveraged prices for their loops at a later date in order to satisfy the weighted average restriction in ¶797.

Despite the many virtues of density-based geographically deaveraged prices, Sprint believes it is unrealistic to require deaveraging of the proxy rate for the unbundled loop. Any attempt to decide how to unbundle this rate on a rational basis simply diverts time and resources that could be better spent by the parties on developing cost-based, density-deaveraged loop prices. Thus, while Sprint wholeheartedly supports the Commission's determination that permanent, cost-based rates for unbundled elements should be deaveraged, it urges the Commission to reconsider whether interim proxy rates should be deaveraged as well.

IV. AVAILABILITY OF WHOLESALE RATES FOR PAYPHONE LINES (¶876)

In ¶876, the Commission concludes that independent payphone providers are not "telecommunications carriers" and thus that ILECs need not make available service to such payphone providers at wholesale rates. Although Sprint agrees

that payphone providers are not carriers as such, payphone providers that use store and forward technology in their payphones may also act as a resale carrier for many calls made from their phones, and Sprint is aware that in at least one state (Nevada) payphone providers are seeking certification as telecommunications carriers with the intent to obtain wholesale discounts on payphone lines.

Sprint believes that any attempt by payphone providers to obtain wholesale discounts on lines to their own payphones would be precluded by §875, which states that ILECs are not required to make services available for resale at wholesale rates to "parties... who are purchasing service for their own use." However, as a practical matter, it is impossible for an ILEC to know whether a carrier that is also a payphone provider is connecting a payphone line to one of its own phones or a phone owned by a wholly independent party.

Sprint believes that payphone lines are more akin to access facilities -- which are not subject to the wholesale discount requirement -- than to retail services provided to the public at large. Like access, payphone lines are intended only to be used by parties providing telecommunications services to others. Thus, the better course of action would be to not require a wholesale discount for such facilities to begin with. That would avoid the enforcement problems of determining whether a payphone provider is or is not a

carrier, and whether, if it is a carrier, it is providing service to itself.

V. RECIPROCAL COMPENSATION -- CLEC NETWORK ARCHITECTURE (¶1090)

In ¶1090, the Commission directs states to consider whether new technologies employed by CLECs, such as fiber rings or wireless networks, perform functions similar to those performed by an ILEC's tandem switch "and thus, whether some or all calls terminating on new entrant's network should be priced the same as the sum of transport and termination via the incumbent's tandem switch." In addition, that paragraph states:

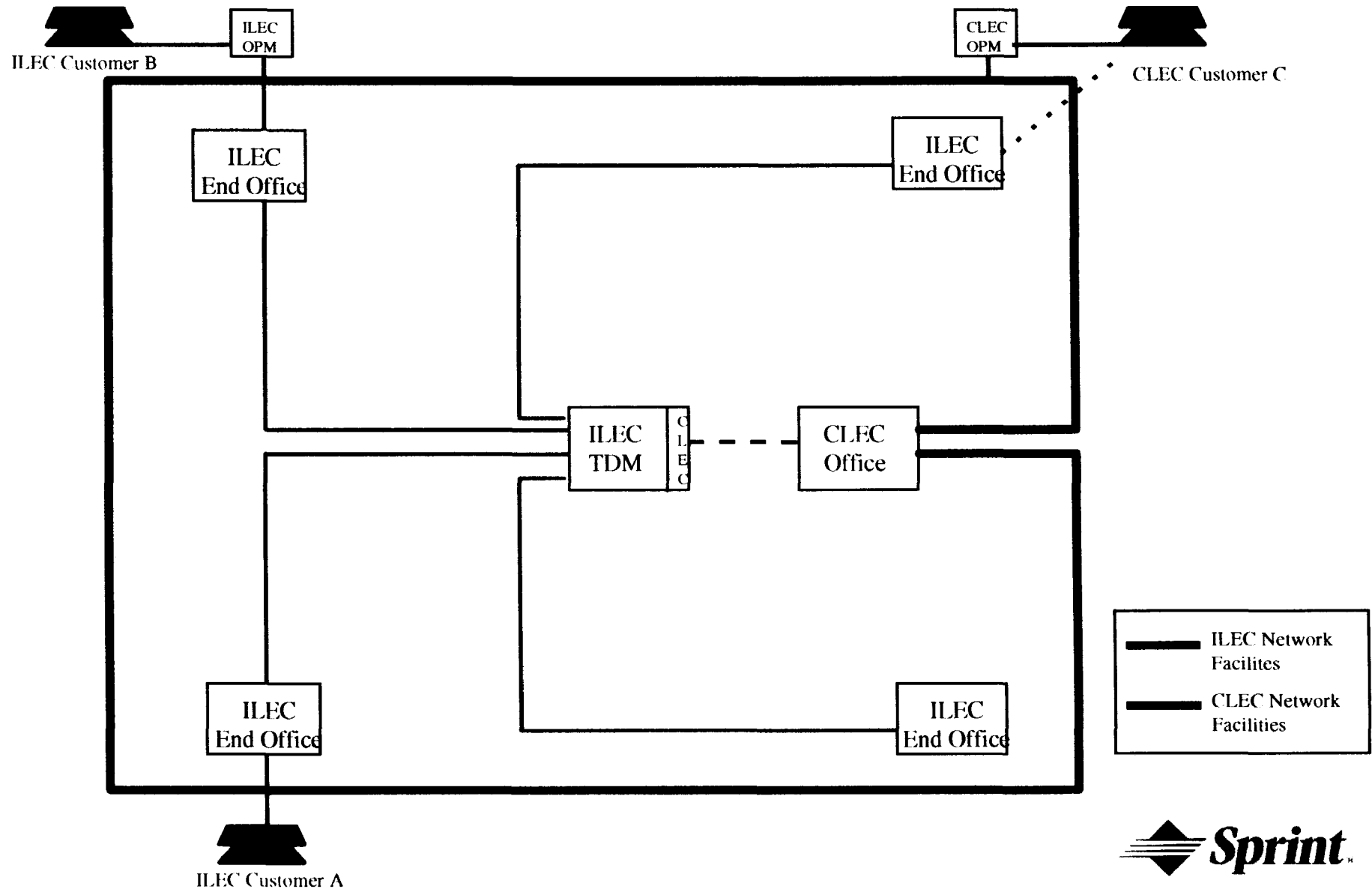
Where the interconnecting carrier's switch serves a geographic area comparable to that served by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate.

That latter sentence is condified in §51.711(a)(3) of the Rules. These provisions result in overcompensating the CLEC by giving the CLEC compensation for a network that does not exist. This is true in two respects: payment for both local switching and tandem switching, in cases where only one switch is employed, and payment for "transport" from the CLEC's local switch to some point close to the end-user, when in fact that transport is part of the CLEC's loop plant.

These issues are illustrated by the diagram on the following page, which represents a question that has arisen in

ILEC vs CLEC TRANSPORT

(TRANSPORT & TERMINATION UNDER SECTION 251(b)(5), RECIPROCAL COMPENSATION)



negotiations between a Sprint ILEC and another carrier. Under the terms of the First Report and Order, in the case of a call from a CLEC customer to either ILEC customer A or ILEC customer B in the attached diagram, the compensation payable to the ILEC would consist of a portion of the cost of the interconnecting facility, the tandem switching charge, the end office switching charge and transport from the ILEC tandem to the ILEC end office. The cost of the plant between the ILEC end office and either ILEC customer A or ILEC customer B would not be recoverable by the ILEC. By virtue of the quoted provisions of ¶1090, the CLEC is contending that all of its transmission plant from its office to its customer premises (CLEC customer C in the diagram) is "transport" and that it is entitled to charge tandem switching, end office switching, plus transport all the way from its office to its customer premises.

Sprint well understands that CLECs may choose to employ a different tradeoff between loop lengths and the number of switches than the incumbent ILEC employs to serve the same area. Furthermore, it may well be true that some of the transmission costs between the CLEC's switch and its customer premises may, to some small degree, be traffic-sensitive. However, the same is true for an ILEC that uses fiber ring architecture or concentration devices between the end-office and its customer premises. Nonetheless, all plant between the

ILEC end office switch and the customer premises has been commonly understood to be loop plant and treated as non-traffic sensitive, and there is no sound reason to treat a CLEC's network (that may even use the same type of loop plant as the ILEC) any differently.

Thus, Sprint believes it is illogical to treat the CLEC's switch as both a tandem switch and an end-office switch, when in fact only one switching function is performed, and to treat some or all of the CLEC's loop plant as "transport" when all plant behind the last point of switching for the ILEC is considered loop plant and excluded from the ILEC's compensation for transport and termination. Furthermore, paying the CLEC rates for what amounts to a "phantom" network is inconsistent with the costing standard in §252(d)(2) that each carrier recover its additional costs of transport and termination.

Accordingly, Sprint urges the Commission to modify §51.711(a) to provide that in cases where symmetrical rates are employed, and the CLEC switch serves the same geographic area as an ILEC's tandem switch, the CLEC is only entitled to compensation for local switching and a portion of the facility interconnecting its switch with that of the ILEC. If the CLEC believes that its traffic-sensitive costs of transport and termination are not fully compensated by this rate, it is

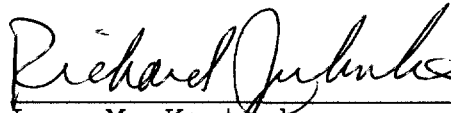
free, pursuant to §51.711(b), to prove its costs and seek an asymmetrical rate.

VI. CONCLUSION

As indicated by the foregoing discussion, the points that Sprint raises on reconsideration do not represent significant policy disagreements with the Commission. Nonetheless, it is to be expected that in any proceeding of such scope, there are determinations which may simply be difficult to implement -- such as electronic interfaces to operations support systems by January 1, 1997 -- or may have unintended consequences (as is the case of the other issues discussed above). Sprint urges the Commission to reconsider or clarify the determinations discussed above.

Respectfully submitted,

SPRINT CORPORATION

A handwritten signature in dark ink, appearing to read "Richard Juhnke", is written over a horizontal line.

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September 30, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September, 1996 a true copy of the "Petition for Reconsideration of Sprint Corporation" was sent via first-class mail, postage-prepaid, or hand delivered to the following parties listed below.


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